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**FOLLOW UP TO THE COMMITTEE SESSION ON 21 OCTOBER
AND UK PROPOSALS FOR AN AMENDED PROTOCOL ON IRELAND/NORTHERN
IRELAND**

I was pleased to give evidence to the Committee on 21 October which I hope proved useful to your continuing scrutiny of the revised Withdrawal Agreement and Political Declaration.

During the session I made commitments to write with further information regarding the Protocol on Ireland/Northern Ireland and parliamentary scrutiny of third country trade deals. In addition I wrote to the Committee on 15 October indicating that I would provide responses to the Committee's questions regarding the Protocol once negotiations of these issues had concluded. I am therefore pleased to set out responses to these below.

Firstly, you asked me to provide further information on the work of the Specialised Committee on the Protocol on Ireland/ Northern Ireland.

The Joint Committee will supervise the implementation and application of the Withdrawal Agreement, as well as the new Protocol. It will be the formal means of dialogue between the UK and EU. The Northern Ireland Specialised Committee sits under the Joint Committee and will consider issues concerning the Protocol, reporting them to the Joint Committee for any decision. It will be attended by UK and EU representatives and it will be for each side to decide the composition of their delegation.

Secondly you asked me to provide further clarification of the precise regulatory, customs and VAT checks that will be required on goods moving both from Great Britain to Northern Ireland, and from Northern Ireland to Great Britain.

This deal makes clear that Northern Ireland remains part of the UK's customs territory and will benefit from the free trade deals we strike. Nothing in these proposals will prevent unfettered access for goods moving from NI to the rest of the UK. No tariffs will be paid on goods moving from GB to NI that are not deemed to be at risk of going into the EU. Goods that are destined for the EU will have to comply with EU rules. The system that we have established should ensure limited to no interruption for GB-NI trade. The agreement also allows the UK to reimburse or waive tariffs.

Northern Ireland will be aligned to certain EU VAT and excise law concerning goods. However, the arrangements ensure Northern Ireland remains part of the UK's VAT and excise system and HMRC will continue to be responsible for the operation and collection of these UK VAT and excise revenues. The specific practical arrangements will be the subject of discussions within the Joint Committee, which is also responsible for keeping the application under review to ensure Northern Ireland's integral place in the United Kingdom.

Thirdly I offered to write regarding effective parliamentary scrutiny of third country trade deals, and the perceived deficiencies of the Constitutional Reform and Governance Act.

The Government has recently provided extensive detail on its position in relation to this topic. The former FCO minister for Europe and the Americas, together with the former Chancellor of the Duchy of Lancaster, gave evidence to the inquiry by the Constitution Committee into the parliamentary scrutiny of future treaties, and the Government issued a formal written response to their final report in July. The Government also responded to the Lords European Union Committee report on scrutiny of treaties in September. Most recently, the Foreign and Commonwealth Office provided written evidence to the Public Administration and Constitutional Affairs Committee (PACAC) Inquiry into The Role of Parliament in the UK Constitution: The Scrutiny of International Treaties and other Agreements. These public documents address these issues and may provide useful background.

As these documents detail, the Government continues to believe that the legislative framework set by the Constitutional Reform and Governance (CRaG) Act 2010 is appropriate and provides sufficient flexibility to permit Parliament to undertake scrutiny in the manner of its choosing prior to ratification. The Government is committed to providing the necessary information to enable a committee to conduct scrutiny within this framework.

The Government is committed to ensuring that our trade policy is transparent and subject to appropriate parliamentary scrutiny. For new future free trade agreements, the Government will publish an outline approach for each negotiation, including our objectives; draw on the expertise of Parliament throughout negotiations via a close relationship with a parliamentary committee; and lay the full treaty text and Explanatory Memorandum before Parliament at the end of negotiations.

With regard to the Committee's letter of 11 October regarding the Protocol on Ireland/Northern Ireland I am pleased to set out the following responses below.

The Government has agreed the potential creation of an all-island regulatory zone on the island of Ireland covering all goods, including agri-food and manufactured goods. Can you explain how the controls, notification requirements and on-the-market surveillance envisaged on goods moving from Great Britain to Northern Ireland will work in practice?

There will be a special arrangement for Northern Ireland, reflecting the unique circumstances there. We will guarantee – and reinforce – the peace process and avoid any issues at the border. Northern Ireland will have access to the Single Market, but can also be part of UK trade deals negotiated around the world. Crucially, this arrangement will be underpinned by the principle of democratic consent.

Checks already take place on some goods moving between GB and NI. Moving certain agri-food products or live animals from GB to NI will require checks and controls in line with EU rules to safeguard the integrity of the sanitary and phytosanitary regime that will exist across the island of Ireland as part of the single regulatory zone. In the long run, the precise nature of these checks will depend on the UK's future relationship with the EU. This is why we remain committed to a comprehensive and balanced free trade agreement with the EU.

What practical impact will they have on businesses affected, and how intrusive are these mechanisms likely to be? What assessment have you made of the overall economic impact of the imposition of such checks? What assessment have you made of the economic impact, both for large businesses and in particular for SMEs, of the imposition of customs controls on the island of Ireland? How would you respond to the concerns that have been expressed by businesses about the potential cost of the proposals? Last year, the Committee visited firms operating on the border in the clothing and dairy industry, both of which had complex cross-border supply chains. What would be the practical impact on such businesses, and in particular on their supply chains, of these new arrangements?

The agreement protects the economy of Northern Ireland and Ireland by ensuring that all businesses can continue to trade easily across the North-South border without customs checks or controls. This agreement will not require any new infrastructure or processes in respect of the land border. Businesses in Northern Ireland will have tariff free access to the whole of the UK. It brings the whole of the UK out of the EU Customs Union and provides Northern Ireland with the opportunity to benefit from future trade deals negotiated by the UK.

Additionally, this Government proposes a New Deal for Northern Ireland, with appropriate commitments to help boost economic growth and Northern Ireland's competitiveness, and to support infrastructure projects, particularly with a cross-border focus.

Can you confirm that there will be no checks on goods moving from Northern Ireland to Great Britain?

This deal explicitly allows the UK to ensure unfettered market access for goods moving from Northern Ireland to Great Britain. The UK does not therefore intend to carry out checks on such movements of goods. There will be a minimal administrative process which is designed to prevent, for example, trade in endangered species. We will work with the EU to eliminate this limited process as soon as possible after Brexit.

Is the Government's proposal for the development by the end of the transition period of a new notification requirement to prevent the entry of prohibited or restricted goods to the island of Ireland viable? How is it envisaged that this notification requirement will work, and are there any precedents that you are using as a basis for developing such requirements?

For the protection of the single regulatory zone and consumers on the island of Ireland, and to ensure that the correct tariffs are applied we will need information on goods moving from Great Britain to Northern Ireland. Therefore, customs procedures including a declaration will be required.

The precise arrangements for ensuring the effective operation of this approach would be decided through the Joint Committee before the end of the transition period.

What are the implications of Northern Ireland's alignment with EU rules on sanitary and phytosanitary (SPS) and manufactured products for its place in any free trade agreements with third countries, such as the USA?

This arrangement will not prevent the UK from striking new trade deals. We will have an independent trade policy where we will play a full and active role on the global stage, working closely with friends new and old. During this arrangement, Northern Ireland will be part of the UK's customs territory and will benefit from UK trade deals.

Can you provide further clarification of how the proposed customs checks would work in practice? You state that a "small number of physical checks" will be conducted at "traders' premises or other points on the supply chain." What scale of physical checks do you think will be necessary under the Government's proposals?

This deal ensures that an open border is maintained on the island of Ireland, a key objective for all sides in this negotiation. Any processes normally required on goods entering the EU will be implemented at the Northern Ireland/Rest of World border or on trade moving East-West between Great Britain and Northern Ireland. For as long as Northern Ireland participates in the customs arrangements and regulatory zone, there will therefore be processes to ensure that goods entering Northern Ireland destined for the EU pay the right duty and that all goods comply with the appropriate rules. These processes will be largely electronic in nature and any checks on goods will principally relate to regulatory alignment rather than customs compliance (noting, for example, that the UK currently checks only 4%

of movements notified through customs declarations, with under 1% involving physical checks of the consignment).

You state that the UK and the EU should cooperate to minimise evasion. What assessment have you made of the likely scale of smuggling and VAT evasion under these proposals? What practical steps can be taken to mitigate this risk?

The UK and the EU are committed to working together to ensure compliance. UK and EU authorities will exchange information on a monthly basis in order to support effective compliance and enforcement activity, and EU representatives can also request to be present at customs or regulatory inspections.

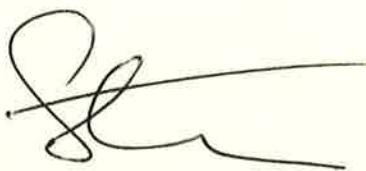
Can you explain how the proposal that the Northern Ireland Executive and Assembly should have the opportunity to endorse these arrangements before they enter force and every four years afterwards will work in practice? Given that the Assembly has not sat since January 2017, what happens if the Assembly is not re-established, or collapses again in the Future? The Government has stated that the proposal for democratic consent is within the framework set by the Belfast (Good Friday) Agreement. Does this mean that consent will be required on a cross-community basis, either via parallel consent or weighted majority, rather than by a simple majority? The Government has stated that in the event of consent being withheld, “arrangements will default to existing rules”. Does this mean that Northern Ireland would, in such circumstances, default to UK rules? Does this therefore amount to a veto power for those favouring UK alignment over EU alignment?

Any solution in Northern Ireland can only be lasting if it has democratic support. That is why the new Protocol ends NI's alignment with EU law after four years unless NI exercises a democratic choice to continue. The Assembly would be able to vote to extend the alignment with EU law. But if it voted against, then NI's alignment with EU law will come to an end two years later. It is absolutely right to give a democratic choice to elected representatives in Northern Ireland.

The consent mechanism operates on the basis of a majority of democratically elected representatives in Northern Ireland being able to continue or end any alignment with EU law. That is the right mechanism - we rejected the idea of a cross-community vote to 'opt-out' of the Protocol because that would have handed either community a veto in practice. The right position in principle is not to hand a veto to anyone - not to Brussels, not to Dublin, and not to any one party in Northern Ireland. That is what our consent mechanism does. Of course we want to encourage and incentivise cross-community support. That is why our mechanism ensures that if there is cross-community support to continue alignment, there will be no need to test NI's consent to these arrangements for a further eight years, rather than the default four years. And we will commission an independent review to address concerns if this vote has not passed on a cross-community basis.

We are working hard to restore the NI Assembly. But we are confident the consent process set out in the Declaration can always take place. As now, even where the Assembly is not considering business, there are MLAs elected by people in NI. Government will set out in legislation an alternative, fallback process where those MLAs can be specially convened for a vote.

I trust these responses will prove helpful to your continuing inquiries. I would be happy to answer any follow-up questions the Committee might have.

Yours sincerely


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SECRETARY OF STATE FOR EXITING THE EUROPEAN UNION